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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/654,509	09/03/2003	Thilaka S. Sumanawera	2003P09377US	4955

7590 10/03/2006
Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

JAWORSKI, FRANCIS J

ART UNIT	PAPER NUMBER
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3768

DATE MAILED: 10/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/654,509	Applicant(s) SUMANAWEERA ET AL.	
	Examiner Jaworski Francis J.	Art Unit 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 9/3/03 IDS.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 27 is/are pending in the application.
- 4a) Of the above claim(s) 13 - 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 03 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>9/3/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 - 12, drawn to Method for Ultrasound Imaging, classified in class 600, subclass 437.
- II. Claim 13 - 21, drawn to Method for Remote Processing of Multiple Source Image data, classified in class 382, subclass 128.
- III. Claim 22 - 27, drawn to Distributed Server and Imaging System Architecture for Image Processing and Management, classified in class 705 , subclass 3

The inventions are distinct, each from the other because of the following reasons:

Inventions I are II related as method subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as in a system which remotely processes images from a single local imager i.e. one which does not serve as a hub for multiple machines.. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a

continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Inventions I, II and III are related as processes and apparatus for their practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus may be used in a network which includes transmission of processed images to tertiary locations and/or combinations of locations including tertiary locations other than image data sources.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

During a telephone conversation with Craig Summerfield on September 26, 2006 a provisional election was made without traverse to prosecute the invention of Group I,

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claims 1 - 12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13 – 27 stand withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 – 5, 10 - 11 are rejected under 35 U.S.C. 102(b) as being anticipated by McMorrow et al (US6569097) insofar as McMorrow et al teaches a method a method of acquiring ultrasound data at a first location (DCD or data collection device) with transmission to a second location remote therefrom for application-specific processing such as automatically processing ultrasound bladder volume image data for quantification as a bladder volume result, and receiving the processed results at a DCD location such as the source imager location.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMorrow et al as applied to claim 1 above, and further in view of Zulauf (US5482043 since the latter evidences that remote or telemedical processing of ultrasound images would include as a processed result an interpretation of the image data at the remote site, whereupon the processed data would comprise the interpretation as the user input into a report.

Claims 3, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMorrow et al as applied to claim 1 above, and further in view of Hossack et al (US6201900) insofar as the latter in the Cols. 22 – 23 bridging passage evidences that motion estimation and its attendant filtering would be one form of remote application-specific processing on the image data set including use of the second harmonic for motion estimating as elsewhere noted therein.


Claims 7 – 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMorrow et al ('097) as applied to claim 1 above, and further in view of McMorrow et al (US6905468) since the latter poses that for the abdominal aneurysm case mentioned in the former, the image volume data of Doppler or B-scan type can be transmitted remotely for aortic diameter quantification or volume rendering with transmission back to e.g. emergency personnel during the imaging session.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over McMorrow et al ('097) as applied to claim 1 above, and further in view of Mullen et al (US6224551) since the latter evidences that where image data is transferred back and forth across a network such as the internet, password encryption is desirable to insure security, see claim 2 of the latter.

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.

FJJ:fjj

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Francis J. Jaworski
Primary Examiner